

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-3, 5, 6, 8-10, 14, 15, and 19-39 are pending in the application, with claims 1, 5, and 35-39 being the independent claims. Claims 1, 5, 24, 29, and 35-39 are sought to be amended without prejudice to or disclaimer of the subject matter therein. Applicants reserve the right to prosecute similar or broader claims, with respect to the amended claims, in the future. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Examiner Interviews

Applicants respectfully thank the Examiner for extending the courtesy of two telephone interviews to Applicants' representative, on February 4, 2009 and February 19, 2009. During the Examiner Interview, Applicants discussed why the pending claims distinguished from the applied references, particularly Arnold, and proposed clarifying amendments that would further distinguish the claims over the applied references. The Examiner implicitly agreed that the proposed amendments would move the prosecution forward. To date, Applicants have not received an Interview Summary, but a preliminary agreement was reached during the telephone conference.

Allowable Subject Matter/Claim Objections

Applicants note the objection of claim 26, and also note with appreciation the indication that claim 26 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Applicants choose not to rewrite dependent claim 26 in independent form at this time.

Rejections under 35 U.S.C. § 103

Claims 1-3, 5, 6, 8-10, 14, 15, 19-25 and 28-39

Claims 1-3, 5, 6, 8-10, 14, 15, 19-25 and 28-39 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Pat. No. 5,623,600 to Ji et al. ("Ji") in view of U.S. Pat. No. 5,440,723 to Arnold et al. ("Arnold"). Applicants respectfully traverse this rejection.

Independent claims 1, 5, and 35-39 recite features that distinguish over the cited references. Support for amendments to the independent claims can be found, for example, on page 19, lines 4-8, and page 19, line 24 - page 20, line 6, and elsewhere in the filed application. Independent claim 1 recites, for example:

"... receiving, at a model of a second computer, a status update communication from the second computer, the status update communication including pre-existing information on the second computer; updating and maintaining the model based on the status update communication, to reflect any changes to the second computer; receiving computer data from a first computer at the model of the second computer, the model having been maintained and updated prior to receiving the computer data; screening the computer data for at least one virus using the model..."

Independent claim 5 recites, for example:

"A virus screening system... to screen computer data for at least one virus when the computer data is transmitted between a first computer and a

second computer, the virus screening device comprising: a third computer on the network that comprises a model of a second one of the first and the second computers, the **model configured to be maintained and updated prior to receiving the computer data, based on pre-existing information on the second computer**, to reflect any changes to the second one of the first and second computers and to screen the computer data from a first one of the first and second computers..."

Independent claim 35 recites, for example:

"...receiving computer data from a first computer at a model of a second computer; **maintaining and updating the model prior to receiving the computer data, based on pre-existing information on the second computer**, to reflect any changes to the second computer; screening the computer data for at least one virus using the model and producing a screening result..."

Independent claim 36 recites, for example:

"...means for receiving the computer data from a first computer, the means for receiving being configured as a **model of a second computer and being configured to be maintained and updated prior to receiving the computer data, based on pre-existing information on the second computer**, for any changes to the second computer; means for screening the computer data for at least one virus..."

Independent claim 37 recites, for example:

"receive computer data from a first computer at a model of a second computer; **maintain and update the model prior to receiving the computer data, based on pre-existing information on the second computer**, to reflect any changes to the second computer; screen the computer data for at least one virus using the model and producing a screening result "

Independent claim 38 recites, for example:

"causing an intermediary node to receive computer data from a first computer, the **intermediary node being a model of a second computer; causing the intermediary node to be maintained and updated prior to receiving the computer data, based on pre-existing information on the second computer**, to reflect any changes to the second computer; causing the intermediary node to screen the computer data for at least one virus using the model and producing a screening result"

Independent claim 39 recites, for example:

" receiving, at a model of a destination computer, a status update communication from the destination computer, the status update communication including pre-existing information on the destination computer; maintaining the model of the destination computer prior to receiving data destined for the destination computer, based on the status update communication; analyzing data destined for the destination computer to determine whether the data includes a virus"

At page 3 of the Office Action, the Examiner states that Ji fails to disclose or suggest "wherein the intermediary computer is a model of the second computer and the model being maintained and updated to reflect any changes to the second [computer]." Rather, the Examiner relies on Arnold to allegedly remedy the deficiencies of Ji.

As noted during the Examiner Interview, Arnold merely discloses, as a method of code-data segregation for already-received computer data, "[s]imulation of marked viral code in a virtual machine, wherein the virtual machine includes a hardware and software model of the computer or class of computers for which the virus signature is being obtained." (Arnold, col. 8 lines 28-31). However, Arnold fails to disclose or suggest that the model of the destination computer is "maintained and updated *prior to* receiving" the computer data "based on pre-existing information on the second computer," as recited, using respective language, in the independent claims. To the contrary, as Applicants emphasized during the Examiner Interview, Arnold creates the model *after* receiving anomalous/virus activity, i.e., in response to *already having received* the data associated with anomalous activity. Arnold discloses that the model is created during Step D (col. 7, line 10 - col. 8, lines 31), *after steps* A-C as illustrated in FIG. 2 of Arnold (e.g., after scanning received data for viruses).

Therefore, as Arnold does not cure the noted deficiencies of Ji, the applied references cannot be used to establish a *prima facie* case of obviousness for claims 1, 5, and 35-39.

Accordingly, Applicants respectfully request that the rejection of claims 1, 5, and 35-39 be reconsidered and withdrawn. Also, at least based on their respective dependencies to claims 1 and 5, claims 2, 3, 6, 8-10, 14, 15, 19-25 and 28-34 should be found allowable, as well as for their additional distinguishing features.

Claim 27

Claim 27 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatenable over Ji in view of Arnold, further in view of U.S. Pat. No. 6,826,698 to Minkin et al. ("Minkin"). For the reasons set forth below, Applicants respectfully traverse this rejection.

Claim 27, which depends from independent claim 1, also distinguishes over the combined teaching of Ji and Arnold for reasons similar to those set forth above with respect to independent claim 1, and further in view of its own features. At page 12 of the Office Action, the Examiner states, which Applicants do not acquiesce to, that Minkin discloses switching between allowing and disallowing screening based on enabling/disabling signals. Even assuming this is correct, Minkin is not stated to teach or suggest, nor does Minkin teach or suggest, the distinguishing features of claim 1. Thus, Minkin fails to cure the deficiencies of the combined teaching of Ji and Arnold, as noted above. Therefore, claim 27 is patentable over Ji, Arnold, and Minkin, taken alone or in combination, for at least the reasons provided above.

Reply to Office Action of December 17, 2008

FRANCZEK *et al.*
Appl. No. 10/810,443

Accordingly, Applicants respectfully request that the rejection of dependent claim 27 be reconsidered and withdrawn.

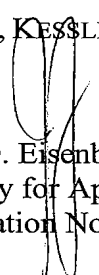
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


Jason D. Eisenberg
Attorney for Applicants
Registration No. 43,447

Date: March 17, 2009

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600
918024_1.DOC